

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

NESTOR A. BAEZ,

Plaintiff,

v.

ACTION NO. 2:14cv628

CAROLYN W. COLVIN,
Acting Commissioner,
Social Security Administration,

Defendant.

FINAL ORDER

Plaintiff, Nestor A. Baez, brought this action pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), seeking judicial review of the final decision of the Acting Commissioner of the Social Security Administration denying Plaintiff's claim for Disability Insurance Benefits ("DIB") pursuant to Title II, and his claim for Supplemental Social Security Income ("SSI") pursuant to Title XVI of the Social Security Act.

This matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72(b) of the Federal Rules of Civil Procedure, as well as Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation of the Magistrate Judge was filed on December 7, 2015, recommending that

the Defendant's Motion for Summary Judgment, ECF No. 13, be denied, that Plaintiff's Motion for Summary Judgment, ECF No. 11, be granted to the extent it seeks reversal and remand of the Acting Commissioner's decision, and denied to the extent that it seeks entry of an order directing the award of benefits, and that the final decision of the Acting Commissioner be vacated, and that this matter be remanded for further proceedings consistent with the Report and Recommendation.

By copy of the Report and Recommendation, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation and the time for filing such objections has expired.

Following a de novo review of the Magistrate Judge's Report and Recommendation, the Court hereby **ADOPTS** the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on December 7, 2015. The Defendant's Motion for Summary Judgment, ECF No. 13, is **DENIED**, Plaintiff's Motion for Summary Judgment, ECF No. 11, is **GRANTED** to the extent it seeks reversal and remand of the Acting Commissioner's decision, and **DENIED** to the extent that it seeks entry of an order directing the award of benefits, and the Acting Commissioner's decision is **VACATED** and **REMANDED** for further proceedings consistent

with the Report and Recommendation of the Magistrate Judge.

The parties are ADVISED that they may appeal from this Final Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within sixty (60) days from the date of this Final Order.

The Clerk shall forward a copy of this Final Order to counsel of record.

/s/ 

Mark S. Davis

United States District Judge

Norfolk, Virginia

January 5, 2016